

**Internal Revenue Service**

**District  
Director**

**Department of the Treasury**

**1100 Commerce St., Dallas, Texas 75242**

**Date: NOV 16 1994**

**Employer Identification Number:**

**Case Number:**

**File Folder Number**

**Person to Contact:**

**Telephone Number:**

**Refer Reply To:**

Dear Sir or Madam:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted indicates that you were formed under a Declaration dated [REDACTED]. According to Section 1 of this Declaration, owners of lots in the [REDACTED] subdivision shall be the members of your association.

According to Section 3(A) of the Declaration, the Association shall have the following powers:

- (1) To maintain, repair and when necessary, construct and reconstruct roadway surfaces within access easements;
- (2) To provide for the removal of snow from access easements;
- (3) To levy and collect the assessments which are provided for in the declaration.

According to Section 3(B) of the Declaration, the Association shall have the following powers:

- (1) To provide for the collection and disposal of rubbish and garbage;
- (2) To care for, spray, trim, protect and replant trees, shrubbery and grass on all access easements and in other common places where trees, shrubbery and grass have once been planted;
- (3) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the district neat in appearance and in good order;

- (4) To provide such lights as the Association may deem advisable on access easements and in other common places;
- (5) To provide for the cleaning of catch basins and for the repair and maintenance of storm sewers and appurtenant drainage facilities;
- (6) To erect and maintain signs for the marking of streets, and safety signs for the protection of children and other persons;

According to your Form 1024, Application for Recognition of Exemption Under Section 501(a), you have the following activities:

- (1) Provide weekly trash pickup for every unit and to collect assessments to pay for such pickups;
- (2) Repair and maintain the streets of [REDACTED] and to collect assessments to pay for these services;
- (3) Provide snow removal when needed and to collect such assessments from the homeowners to pay for this service.

According to your correspondence dated [REDACTED], there are [REDACTED] residences and membership is mandatory. The fees which you charge are:

Trash pickup	\$ [REDACTED] per year.
Street repair	\$ [REDACTED] per year.
Snow removal	\$ [REDACTED] per year.
Assessment per member per year	\$ [REDACTED] per year.

Your association does not charge dues. All of your income comes from member assessments and interest. You remove snow from all of the common areas and the driveways of every member provided all parked vehicles are out of the way.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

In the Revenue Ruling 54-394, 1954-2 C.B. 131, a community television antenna organization whose only activity was to provide television reception to its members was held not to be exempt as a civic league under section 501(c)(4) if its method of operation was such that only the members received the television signal by closed circuit. Thus, it operated for the benefit of its members rather than for the benefit of the community.

In the Revenue Ruling 69-280, 1969-1 C.B. 152, a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization under section 501(c)(4) of the Code.

In the Revenue Ruling 72-102, 1972-1 C.B. 149, a membership organization formed by a developer to administer and enforce covenants for preserving the architecture and appearance of a housing development and to own and maintain common areas, streets, and sidewalks for the use of all development residents was exempt under section 501(c)(4) of the Code.

The Revenue Ruling 74-99, 1974-1 C.B. 131 provides that in order to qualify for exemption under section 501(c)(4), a homeowners' association must serve a "community" which bears a reasonable relation to an area ordinarily identified as governmental; must not conduct activities directed to the exterior maintenance of private residences; and the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

You are similar to the organization described in Revenue Ruling 54-394, supra, and in Revenue Ruling 69-200, supra. You are providing a service to your members for a fee. These services your members would otherwise have to provide for themselves. You are a private cooperative enterprise for the economic benefit and convenience of your members.

You are not similar to the organization described in the Revenue Ruling 72-102, supra. This organization is maintaining only the common areas of the housing development. You are providing services to and maintaining the private property of your members as well as maintaining common areas.

Since your primary activity is providing services to your members, you are not operating for 501(c)(4) purposes. It is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code, and you are required to file Federal income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

[REDACTED]

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]

District Director

Enclosures:  
Publication B92  
Form 6018